

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

INOVIS, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 07-459 (GMS)
)	
CLASSIFIED INFORMATION, INC., and)	
DISTANCE DIGITAL CO., LLC,)	
)	
Defendants.)	

ORDER

WHEREAS, on July 23, 2007, the plaintiff Inovis, Inc., (“Inovis”) filed this action for declaratory judgment against the defendant Classified Information, Inc., (“Classified”) regarding Classified’s U.S. Pat. No. 5,812, 669 (the “‘669 patent”) (D.I. 1; D.I 12 (Am. Compl.));

WHEREAS, on February 19, 2008, Classified filed a counterclaim alleging that Inovis infringed the ‘669 patent (D.I. 48);

WHEREAS, on April 28, 2008, Inovis filed a Motion to Stay All Proceedings Pending Determination of Its Filed Request for Reexamination of the ‘669 patent (D.I. 64);

WHEREAS, on May 27, 2008, the United States Patent and Trademark Office (“PTO”) granted reexamination of the ‘669 patent (D.I. 73);

WHEREAS, the decision to stay a case is firmly within the discretion of the court¹;

WHEREAS, fact discovery is not set to conclude until November 7, 2008;

WHEREAS, staying the proceedings at this stage would not unduly prejudice Classified;

¹ *Abbott Diabetes Care, Inc. v. DexCom, Inc.*, 2007 U.S. Dist. LEXIS 73198, at *13 (D. Del. Sept. 30, 2007) (In deciding whether to exercise its discretion to stay a case, a court considers “(i) whether a stay would unduly prejudice or present a clear tactical disadvantage to the non-moving party; (ii) whether a stay will simplify the issues in question and trial of the case; and (iii) whether discovery is complete and whether a trial date has been set.”) (internal citations omitted).

WHEREAS, the PTO's reexamination will likely simplify issues relating to the validity of the '669 patent, the only patent at issue in this action;

IT IS HEREBY ORDERED that:

1. Invis's Motion to Stay All Proceedings Pending Determination of Its Filed Request for Reexamination (D.I. 64) is GRANTED;
2. All proceedings in this matter are stayed pending the PTO's reexamination of the '669 patent; and
3. The parties shall file a status report with the court on or before November 3, 2008.

Dated: June 3, 2008

/s/ Gregory M. Sleet
CHIEF, UNITED STATES DISTRICT JUDGE